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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND LAMONT THEUS,

Defendant and Appellant.

B217973

(Los Angeles County
Super. Ct. No. YA073392)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Hector M. Guzman, Judge. Affirmed.

Tracy A. Rogers, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Steven D. Matthews and Timothy M. Weiner, for Plaintiff and Respondent.

Raymond Lamont Theus alleges sentencing error following his convictions of multiple crimes connected to his beating of his former girlfriend. We affirm.

FACTS AND PROCEEDINGS

Versellia Biggers was a former girlfriend of appellant Raymond Lamont Theus. In mid-August 2008, appellant left two angry and intimidating voice mail messages with Biggers expressing his displeasure with her dating another man. One of those messages threatened, “Look bitch, if you bring another motherfucker to . . . my house I’m a kill you alright. . . . You don’t disrespect me like that.” One morning a few days after sending his second message, appellant forced his way into Biggers’ apartment as she was getting ready for work. Ignoring Biggers’ demand that he leave, appellant punched her three times in the face. He then pushed her onto a couch and began choking her. When appellant let go of Biggers, she tried to escape, but he stopped her by blocking the door. Appellant ordered Biggers to undress and threatened to kill her if she refused. Fearing appellant had a gun, Biggers disrobed. After undressing, Biggers moved toward the door and managed to escape through it to the street outside. With the help of a passer-by, she called the police.

Appellant was arrested and tried by jury. The jury convicted him of inflicting corporal injury on a former cohabitant, assault by means likely to produce great bodily injury, making criminal threats, and false imprisonment by violence. The court sentenced appellant to a prison term of four years for the corporal injury conviction and stayed under Penal Code section 654 appellant’s sentence for assault by means likely to produce great bodily injury. Additionally, the court imposed two consecutive eight month sentences for making criminal threats and false imprisonment. This appeal followed.

DISCUSSION

Appellant contends the trial court erred in not applying Penal Code section 654 (section 654) to stay his prison sentences for false imprisonment and making criminal

threats. Appellant is mistaken. Section 654 bars multiple punishments when a defendant acting with a single criminal intent violates multiple penal statutes during an indivisible course of criminal conduct. (*Neal v. State of California* (1960) 55 Cal.2d 11, 19; *People v. Liu* (1996) 46 Cal.App.4th 1119, 1135.) Section 654, subdivision (a) states:

“An act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision.”

Appellant’s intent was a factual question. (*People v. Andra* (2007) 156 Cal.App.4th 638, 640.) The trial court determines whether appellant acted with a single, or multiple, criminal intents. (*People v. Sanchez* (2009) 179 Cal.App.4th 1297, 1309-1310; *People v. Ratcliffe* (1981) 124 Cal.App.3d 808, 815.) We review the trial court’s findings for substantial evidence. (*People v. Stringham* (1988) 206 Cal.App.3d 184, 202; *People v. Ratcliffe, supra*, at p. 816.)

Appellant asserts his offenses of false imprisonment and making criminal threats involved conduct indivisible from his attack of Biggers. (See *People v. Britt* (2004) 32 Cal.4th 944, 953 [trial court must not “parse[a defendant’s] objectives too finely”].) According to him, “the record shows [he] engaged in an indivisible course of conduct with the single intent of attacking his former girlfriend because he believed she had been seeing another man.” Thus, he concludes, the court should have stayed his sentences for those offenses. (See e.g. *People v. Le* (2006) 136 Cal.App.4th 925, 930-931 [shoplifting items and forcefully resisting guard who tries to prevent shoplifting manifests single criminal intent of stealing goods]; *People v. Lopez* (2004) 119 Cal.App.4th 132, 137-139 [unlawful possession of loaded firearm warrants single punishment; no separate punishments for possession of gun *and* for possession of ammunition].)

Appellant’s assertion fails because he characterizes his intent too narrowly. His overarching aim may have been to attack his former girlfriend, but substantial evidence supports the trial court’s determination that he harbored multiple criminal intents during

his prolonged attack of her. He not only beat Biggers. Several days before he broke into her apartment, he threatened her over the phone. During the attack inside her apartment, he threatened to kill her. He also imprisoned her by, among other things, blocking her attempted escape. Appellant could have committed any of his crimes separately from the others: he could have imprisoned Biggers without beating her; he could have threatened her without beating her; and, he could have beaten her with several punches and then left her apartment without threatening her or blocking her escape. (See *People v. Nguyen* (1988) 204 Cal.App.3d 181, 191 [rejected claim that shooting witness during robbery was part of single intent of carrying out robbery by eliminating witness; noted that “at some point the means to achieve an objective may become so extreme they can no longer be termed ‘incidental’ and must be considered to express a different and a more sinister goal than mere successful commission of the original crime.”].) Substantial evidence thus supported the trial court’s finding that appellant had multiple criminal intents warranting separate punishment for each offense.

Appellant suggests the court was obligated to analyze on the record the evidence supporting its imposition of multiple sentences and make express findings in support of its ruling under section 654. Appellant is mistaken because the court’s findings under section 654 may be implied instead of express. (*People v. Sanchez, supra*, 179 Cal.App.4th at p. 1310.) In any case, the court stated on the record that it rejected appellant’s assertion that section 654 required the court to stay the sentences for false imprisonment and making criminal threats. Explaining its ruling under section 654, the court stated: “As to count 2 [assault likely to cause great bodily injury], the court does agree with defense counsel, that Penal Code section 654 applies. . . . In the court’s opinion it was the same intent and objective that was displayed in regards to counts 1 [battery of former cohabitant] and 2.” But, the court further explained, “As to count 3 [making criminal threats] and count 4 [false imprisonment], the court is in agreement with the People that 654 does not apply as to those charges based on the evidence that was produced during the court of the trial.”

DISPOSITION

The judgment is affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.